

JUL 31 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAVAD ASGHARPOUR SARABI,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 08-72743

Agency No. A028-805-927

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 29, 2009**

Before: WALLACE, LEAVY, and HAWKINS, Circuit Judges.

Javad Asgharpour Sarabi, a native and citizen of Iran, petitions pro se for review of the Board of Immigration Appeals' order dismissing his appeal from an immigration judge's decision denying his application for asylum and withholding

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

of removal, and for deferral of removal under the Convention Against Torture (“CAT”). Our jurisdiction is governed by 8 U.S.C. § 1252. We review for substantial evidence. *See Delgado v. Mukasey*, 653 F.3d 863, 874 (9th Cir. 2009). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the agency’s determination that Sarabi’s aggravated felony conviction rendered him ineligible for asylum and withholding of removal because Sarabi failed to exhaust that issue. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

The agency denied CAT relief because Sarabi did not show it was more likely than not he would be tortured if returned to Iran and the record does not compel a contrary conclusion. *See Lemus-Galvan v. Mukasey*, 518 F.3d 1081, 1084 (9th Cir. 2008).

PETITION FOR REVIEW DISMISSED in part; DENIED in part.